

Message Text

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PAGE 01 MEXICO 15787 211714Z
ACTION L-03

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TO SECSTATE WASHDC IMMEDIATE 5123

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E.O. 11652: NA

TAGS: CARR

SUBJECT: PRISONER TREATY: QUESTIONS RAISED BY HOUSE
COMMITTEE IN HEARINGS ON IMPLEMENTING LEGISLATION

REF: STATE 223202

FOLLOWING ARE RESPONSES TO QUESTIONS POSED REFTEL OBTAINED
FROM PREVENCION SOCIAL.

1. TIME LIMITATIONS FOR APPEAL FROM CRIMINAL CONVICTION:
FIVE DAYS. MEXICO ALSO HAS AN APPELLATE PROCEDURE CALLED
THE "AMPARO". THE FILING OF AN AMPARO WOULD PREVENT RETURN
UNDER THE TREATY. A DIRECT AMPARO (VERY SIMILAR TO AN
APPEAL TO A HIGHER COURT) MUST BE FILED WITHIN THIRTY DAYS.
AN INDIRECT AMPARO, USUALLY BASED ON NEW EVIDENCE, MAY BE
FILED AT ANY TIME. THIS TYPE OF AMPARO IS NOT CONSIDERED
RELEVANT TO TRANSFER UNDER THE TREATY.

2. PROCEDURES IN MEXICO FOR DECLARING MENTALLY ILL THOSE
INDIVIDUALS WHO HAVE BEEN CHARGED WITH A CRIMINAL OFFENSE
ARE AS FOLLOWS:

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(A) ALL PERSONS ARRESTED IN MEXICO ARE EXAMINED BY A DOCTOR
PRIOR TO CONSIGNMENT. IF IT IS DETERMINED THAT THE
ARRESTEE IS MENTALLY ILL AT TIME OF ARREST (ASSUMED TO BE
TIME OF COMMISSION OF OFFENSE), THE PERSON IS NOT CONSIGNED
BUT SENT TO A HOSPITAL. WHEN CURED, HE WOULD BE SET FREE.
SUCH PERSONS ARE LEGALLY NOT CONSIDERED TO HAVE THE
CAPACITY TO COMMIT AN OFFENSE.

(B) IF, AFTER CONSIGNMENT, A JUDGE DETERMINES THAT A PERSON MAY HAVE A MENTAL ILLNESS, A SPECIALIST IS CALLED IN. IF THE SPECIALIST DETERMINES THAT THE PERSON IS MENTALLY ILL, THE LEGAL PROCESS IS SUSPENDED AND THE PERSON SENT TO A HOSPITAL. WHEN FOUND TO BE CURED, HE IS RETURNED TO CUSTODY FOR COMPLETION OF LEGAL PROCESS.

3. JUVENILES ARE PERSONS UNDER 18 YEARS OF AGE. LEGALLY THEY ARE NOT CONSIDERED TO HAVE THE CAPACITY TO COMMIT AN OFFENSE AND ARE NOT THEREFORE IMPRISONED. THEY ARE ASSIGNED TO A SPECIAL ADVISER IN CRIMINAL JUVENILE MATTERS AND A STUDY IS UNDERTAKEN AS TO HOW BEST TO REHABILITATE THE PERSON, E.G., MEDICAL ASSISTANCE OR OTHER REHABILITATION. NORMALLY JUVENILE IS RETURNED TO PARENT'S SUPERVISION. IF PARENTS NOT CONSIDERED CAPABLE, INDIVIDUAL IS SENT TO SCHOOL FOR YOUTHFUL OFFENDERS RUN BY PREVENCIÓN SOCIAL.

4. ABOVE GENERALLY APPLIES TO STATES WHICH FOLLOW FEDERAL RULES OF PROCEDURE.

5. NO AMERICAN CITIZEN JUVENILES ARE PRESENTLY INCARCERATED IN MEXICO. THOMPSON

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